



Senate Bill No. 1143

Public Act No. 05-75

**AN ACT CONCERNING CERTIFICATE OF NEED APPLICANTS
AND PUBLIC HEARING REQUESTS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 19a-630a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

As used in sections 19a-638 to [19a-639a] 19-639c, inclusive, as amended by this act, "affiliate" means [any health-care-related person who directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with, another health-care-related person] a person, entity or organization controlling, controlled by or under common control with another person, entity or organization. In addition to other means of being controlled, a person is deemed controlled by another person if the other person, or one of that other person's affiliates, officers or management employees, acting in such capacity, acts as a general partner of a general or limited partnership or manager of a limited liability company. [in question. For purposes of this section, "health-care-related person" means an entity that is licensed by a state agency to provide direct patient care services for the prevention, diagnosis or treatment of human health conditions.]

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Sec. 2. Subsection (c) of section 19a-638 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(c) (1) The office may hold a public hearing with respect to any complete certificate of need application submitted under this section. At least two weeks' notice of such public hearing shall be given to the applicant, in writing, and to the public by publication in a newspaper having a substantial circulation in the area served by the facility, institution or provider. At the discretion of the office, such hearing may be held in Hartford or in the area so served or to be served. In conducting its activities under this section, section 19a-639, or under both sections, the office may hold hearings on applications of a similar nature at the same time.

(2) The office may hold a public hearing after consideration of criteria that include, but need not be limited to, whether the proposal involves: (A) The provision of a new or additional health care function or service through the use of technology that is new or being introduced into the state; (B) the provision of a new or additional health care function or service that is not provided in either a region designated by the applicant or in the applicant's existing primary service area as defined by the office; or (C) the termination of an existing health care function or service, the reduction of total beds or the closing of a health care facility.

(3) The office shall hold a public hearing with respect to any complete certificate of need application submitted to the office under this section if (A) three individuals or an individual representing an entity with five or more people submit a request, in writing, that a public hearing be held on the proposal after the office has published notice of a complete letter of intent, and (B) such request is received by the office not later than twenty-one calendar days after the office deems the certificate of need application complete.

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Sec. 3. Subsection (b) of section 19a-639 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(b) (1) The commissioner shall notify the Commissioner of Social Services of any certificate of need request that may impact on expenditures under the state medical assistance program. The office shall consider such request in relation to the community or regional need for such capital program or purchase of land, the possible effect on the operating costs of the health care facility or institution and such other relevant factors as the office deems necessary. In approving or modifying such request, the commissioner may not prescribe any condition, such as but not limited to, any condition or limitation on the indebtedness of the facility or institution in connection with a bond issue, the principal amount of any bond issue or any other details or particulars related to the financing of such capital expenditure, not directly related to the scope of such capital program and within control of the facility or institution.

(2) An applicant, prior to submitting a certificate of need application, shall submit a request, in writing, for application forms and instructions to the office. The request shall be known as a letter of intent. A letter of intent shall conform to the letter of intent requirements of subdivision (4) of subsection (a) of section 19a-638. No certificate of need application will be considered submitted to the office unless a current letter of intent, specific to the proposal and in compliance with this subsection, is on file with the office for at least sixty days. A current letter of intent is a letter of intent [which] that has been on file at the office no more than one hundred twenty days, except that an applicant may request a one-time extension of a letter of intent of up to an additional thirty days for a maximum total of up to one hundred fifty days if, prior to the expiration of the current letter of intent, the office receives a written request to so extend the letter of

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intent's current status. The extension request shall fully explain why an extension is requested. The office shall accept or reject the extension request [within] not later than five business days from the date the office receives the extension request and shall so notify the applicant. Upon a showing by such facility or institution that the need for such capital program is of an emergency nature, in that the capital expenditure is necessary to comply with any federal, state or local health, fire, building or life safety code, the commissioner may waive the letter of intent requirement, provided such request shall be submitted at least ten business days before the proposed initiation date of the project. The commissioner shall grant, modify or deny such request [within] not later than ninety days or [within] not later than ten business days, as the case may be, of receipt [thereof] of such request, except as provided for in this section. Upon the request of the applicant, the review period may be extended for an additional fifteen days if the office has requested additional information subsequent to the commencement of the review period. The commissioner may extend the review period for a maximum of thirty days if the applicant has not filed, in a timely manner, information deemed necessary by the office. Failure of the office to act [thereon] upon such request within such review period shall be deemed approval of such request. The ninety-day review period, pursuant to this section, for an application filed by a hospital, as defined in section 19a-490, and licensed as a short-term [acute-care] acute care general hospital or a children's hospital by the Department of Public Health or an affiliate of such a hospital or any combination thereof, shall not apply if, in the certificate of need application or request, the hospital or applicant projects either (A) that, for the first three years of operation taken together, the total impact of the proposal on the operating budget of the hospital or an affiliate or any combination thereof will exceed one per cent of the actual operating expenses of the hospital for the most recently completed fiscal year as filed with the office, or (B) that the total capital expenditure for the project will exceed fifteen million dollars. If the

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office determines that an application is not subject to the ninety-day review period pursuant to this subsection, it shall remain so excluded for the entire period of that application, even if the application or circumstances change and the application no longer meets the stated terms of the exclusion. The office shall adopt regulations, in accordance with chapter 54, to establish an expedited hearing process to be used to review requests by any facility or institution for approval of a capital expenditure to establish an energy conservation program or to comply with requirements of any federal, state or local health, fire, building or life safety code or final court order. The office shall adopt regulations in accordance with the provisions of chapter 54 to provide for the waiver of a hearing, for any part of a request by a facility or institution for a capital expenditure, provided such facility or institution and the office agree upon such waiver.

(3) The office shall comply with the public notice provisions of subdivision (4) of subsection (a) of section 19a-638, and shall hold a public hearing with respect to any complete certificate of need application filed under this section, if: (A) The proposal has associated total capital expenditures or total capital costs that exceed twenty million dollars for land, building or nonclinical equipment acquisition, new building construction or building renovation; [or] (B) the proposal has associated total capital expenditures per unit or total capital costs per unit that exceed one million dollars for major medical equipment, imaging equipment or a linear accelerator, utilizing technology that is new or being introduced into the state; or (C) three individuals or an individual representing an entity comprised of five or more people submit a request, in writing, that a public hearing be held on the proposal and such request is received by the office not later than twenty-one calendar days after the office deems the certificate of need application complete. At least two weeks' notice of such public hearing shall be given to the applicant, in writing, and to the public by publication in a newspaper having a substantial circulation in the area

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served by the applicant. At the discretion of the office, such hearing shall be held in Hartford or in the area so served or to be served.

Approved June 2, 2005